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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,641	06/26/2003	Daniel P. Cram	2269-4588.1US (00-0559.01)	8720
24247	7590	11/15/2004	EXAMINER	
TRASK BRITT P.O. BOX 2550 SALT LAKE CITY, UT 84110			BIDWELL, JAMES R	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,641

Applicant(s)

CRAM, DANIEL P.

Examiner

James R Bidwell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7-30 is/are rejected.
- 7) ☒ Claim(s) 4-6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06-26-2003
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Cruse (U.S. Patent 4,058,223).

Cruse shows a first plate 19 having a first opening 22 aligned with an opening 14 of a second plate 12. Between the two plates is a flexible membrane 25, which receives fluid pressure that causes the membrane to extend outwardly through the opening of the second plate so as to immobilize an article 11 moving adjacent thereto.

Re claim 2, the membrane is silicone rubber, see column 3, and line 5.

Re claim 3, the membrane is fully capable of contacting a specific part of an article without any modification.

Re claim 7, stopping or raising the article with the membrane will cause a separation.

Re claim 8, see Figures 3A-3C.

Re claim 9, see Figure 2, which shows an angular extension of the membrane.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cruse in view of Japanese Patent 62-175321.

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Cruse does not show a second membrane, which contacts a second article. However, shown by the Japanese Patent in Figure 5 is the well known concept of a second stop to contact a second article so that the first may be separated. To include a second stop on Cruse would have been obvious to one of ordinary skill in the art in order to obtain upstream control of the incoming articles.

Re claim 11, as per claim 2 rejection.

Re claim 12 as per claim 3 rejection.

Re claim 13, the second membrane would have it's own source of fluid to cause it's expansion.

Re claim 14, at least two articles would be separated.

Re claim 15, this is how the Japanese Patent shows this well-known and conventional concept.

Re claim 16, Cruse shows an input for pathway 10.

Re claim 17, the Japanese Patent shows a gravity pathway and Cruses' stopper would work on such a pathway without any modification.

Re claims 18 and 19, Cruse discloses a processing step, see column 1.

Re claim 20, the Japanese Patent teaches the control of two articles.

Re claims 21 and 22, as per rejection of claims 18 and 19.

Re claim 23, the membrane is caused to advance into the path of the articles.

Re claim 24, as per claim 3 rejection.

Re claim 25, as modified two membranes are used.

Re claim 26, two articles would be contacted.

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Re claim 27, Cruses' membrane causes the articles to be raised or repositioned.

Re claim 28, the pressure is released to lower the articles.

Re claim 29, the articles are then further advanced.

Re claim 30, the pressure is then reapplied to the next article.

Claims 4-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R Bidwell whose telephone number is (703)308-1144. The examiner can normally be reached on Tues.-Fri. from 6:30 to 4:00. The examiner can also be reached on alternate Mondays

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P Ellis, can be reached on 703-308-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JRB

11-10-2004

James R. Bidwell
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PRIMARY EXAMINER
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